

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

PETER VLAMING,

Plaintiff,

v.

WEST POINT SCHOOL BOARD; LAURA ABEL, individually and in her official capacity as Division Superintendent; JONATHAN HOCHMAN, individually and in his official capacity as Principal of West Point High School; and AMY SAUNDERS or her successor in office, in her official capacity as Assistant Principal of West Point High School,

Defendants.

Civil Action No. 3:19-cv-00773

Hon. John A. Gibney, Jr.

**PLAINTIFF’S RESPONSE IN OPPOSITION TO PROPOSED-INTERVENOR’S
MOTION FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff respectfully opposes Proposed-Intervenor’s Motion for Leave to File Notice of Supplemental Authority. ECF No. 35.

As set forth in Plaintiff’s Motion to Remand, this Court lacks jurisdiction over this action, as it presents no federal question. ECF Nos. 5–6. Without jurisdiction, this Court “cannot proceed at all” to Proposed-Intervenor’s motion, and should deny the motion as moot upon remand. *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998) (quoting *Ex parte McCardle*, 74 U.S. 506, 514 (1868)).

In addition, the motion should be denied for the same reasons set forth in Plaintiff’s Opposition to Motion to Intervene, ECF No. 28.

Therefore, Proposed-Intervenor’s motion for leave to file should be denied.¹

¹ Plaintiff also disagrees with Proposed-Intervenor’s characterization of the Supreme Court’s opinion in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020). However, because the immediate

Respectfully submitted on this 4th day of August, 2020,

/s/ Jonathan Caleb Dalton
J. Caleb Dalton
Virginia State Bar #83790
ALLIANCE DEFENDING FREEDOM,
440 First Street NW, Suite 600
Washington, D.C. 20001
Tel: (202) 393-8690
Fax: (202) 347-3622
cdalton@ADFlegal.org

Shawn A. Voyles
Virginia State Bar #43277
MCKENRY DANCIGERS DAWSON, P.C.
192 Ballard Court, Suite 400
Virginia Beach, VA 23462
Tel: (757) 461-2500
Fax: (757) 461-2341
savoyles@va-law.org

Counsel for Plaintiff

question is merely whether Proposed-Intervenor should be granted leave to file, this Opposition is limited to the motion for leave. Plaintiff reserves any right to respond to the proposed notice of supplemental authority in the event leave is granted to file.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send an electronic notification to the following counsel of record:

Stacy L. Haney, Esq.
HANEY PHINYOWATTANACHIP PLLC
11 S. 12th Street, Suite 300C
Richmond, VA 23219
shaney@haneyphinyo.com

Bruce M. Berman*
Paul Wolfson*
Tania Faransso*
WILLIAM CUTLER PICKERING HALE AND DORR LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
bruce.berman@wilmerhale.com
paul.wolfson@wilmerhale.com
tania.faransso@wilmerhale.com

Alan E. Schoenfeld*
WILLIAM CUTLER PICKERING HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
alan.schoenfeld@wilmerhale.com

Counsel for Defendants
**Admitted Pro Hac Vice*

Colleen Marea Quinn, Esq.
LOCKE QUINN
1802 Bayberry Court, Suite 103
Richmond, VA 23226
quinn@lockequinn.com

Luke Platzer*
JENNER & BLOCK LLP
1099 New York Avenue, NW
Washington, DC 20001
lplatzer@jenner.com

Asaf Orr*
NATIONAL CENTER FOR LESBIAN RIGHTS
870 Market Street, Suite 370
San Francisco, CA 94102
aorr@nclrights.org

Counsel for Proposed Intervenor
* *Admitted Pro Hac Vice*

The following counsel of record was served via U.S. Postal Service, First Class:

Edward Williams**
WILLIAM CUTLER PICKERING HALE AND DORR LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006

Counsel for Defendants
** *Admission pending*

Respectfully submitted on this 4th day of August, 2020,

/s/ Jonathan Caleb Dalton
J. Caleb Dalton
Virginia State Bar #83790
ALLIANCE DEFENDING FREEDOM,
440 First Street NW, Suite 600
Washington, D.C. 20001
Tel: (202) 393-8690
Fax: (202) 347-3622
cdalton@ADFlegal.org

Counsel for Plaintiff